

Exhibit D

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CLINICAL AND FORENSIC PSYCHOLOGY
DIPLOMATE, AMERICAN BOARD OF PSYCHOLOGICAL SPECIALTIES

Forensic and Psychological Assessment
Psycho-Educational Evaluation
Adult, Adolescent, Child

Board Certified in Forensic
Clinical Psychology
American College of Forensic Examiners

FORENSIC PSYCHOLOGICAL EVALUATION REPORT

IDENTIFYING INFORMATION

NAME: Bray, Kyle Matthew
SEX: Male
RACE: Caucasian
DATE OF BIRTH: [REDACTED]
DATE OF EVALUATION: 10/14/04
AGE: 13 Years
SOCIAL SECURITY NO: [REDACTED]
EDUCATION: 7th Grade
SCHOOL: Stuart Middle
EVALUATION LOCATION: 11080 S.E. Dixie Highway
Hobe Sound, Florida
CASE NO: 02-813-CJM

REASON FOR REFERRAL

Kyle Matthew Bray is a 13 year old Caucasian male who has been referred for a Forensic Psychological Evaluation by the Honorable John E. Fennelly, Circuit Judge in the Circuit Court of the 19th Judicial Circuit, in and for Martin County, Florida, to formally assesses his competency to stand trial. In considering whether the Defendant meets the statutory criteria for competency to stand trial, this expert is to assess whether the Defendant has sufficient present ability to consult with counsel with a reasonable degree of rational understanding and whether the Defendant has a rational as well as factual understanding of the pending proceedings. Additionally, in considering the issue of competence to proceed, this expert is to address each of the following factors:

- i) appreciate the charges or allegations against him;
- ii) appreciate the range and nature of possible penalties, if applicable, that may be imposed in the proceedings against him;
- iii) understand the adversary nature of the legal process;
- iv) disclose to his attorney facts pertinent to the proceedings issue;
- v) manifest appropriate courtroom behavior;
- vi) testify relevantly

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BACKGROUND INFORMATION AND RELEVANT HISTORY

Information provided by the Florida Department of Juvenile Justice Expanded Face Sheet finds that on 10/02/02 Kyle was charged with sexual battery-on child under 12 by a perpetrator under 18. Specifically, Kyle was 11 years of age at the time of the incident and the victim was a 4 year old male. Kyle completed two independent Forensic Examinations in 2003 for the purpose of assessing his competency to stand trial and both court-appointed experts opined that he was incompetent to proceed.

In terms of a previous arrest history, Kyle denies any other arrests or law violations. Such is confirmed by the aforementioned Juvenile Justice Report.

Psychiatrically, Kyle is reported to have no history of inpatient hospitalization or placement on psychoactive medication. Following the incident in question, Kyle began outpatient counseling which has been ongoing until several months ago. According to his mother, such was disrupted by recent hurricane events and necessary family relocation due to house destruction.

Educationally, Kyle is presently a seventh grade student at the Stuart Middle School. He is known to have been identified as an Exceptional Education Student since kindergarten and has been placed in special education classes since the time. Kyle has previously been retained and has attended summer school.

In terms of a substance abuse history, Kyle denies any alcohol or drug usage or experimentation.

Medically, Kyle is described in good health and suffering no unusual or chronic physical ailments. According to his mother, pregnancy and birth history was unremarkable and the developmental milestones were attained within acceptable limits.

Regarding home and family, Kyle presently resides with his mother in a local shelter as their home was destroyed during recent hurricanes. His parents are said to have separated in or about 1996 and his father resides in Missouri with Kyle's two older brothers, ages 15 and 20. He reports having telephone contact with his father whom he has also visited during the holidays. For a period of time, Kyle's mother had a live-in boyfriend, however in 2000 he was sentenced to 9 to 12 years in prison.

It should be noted that prior to beginning this evaluation, Kyle and his mother were informed of the nature and purpose of the assessment and that the results would not be held confidential, rather shared with his attorney, the State Attorney, and the Court. Kyle's mother acknowledged that she understood the parameters of the assessment and with that in mind consented to proceed.

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INSTRUMENTS ADMINISTERED AND PROCEDURES USED

Clinical Interview and Observations; Wechsler Intelligence Scale for Children-Fourth Edition (WISC-IV); Competency Evaluation Instrument; Georgia Court Competency Test (GCCT); Parent Interview; and Records Review to include Arrest Affidavit and Police Narrative Reports, Juvenile Justice Expand Face Sheet, Psychological Evaluation Report completed by Dr. Edney on 11/11/02, Forensic Examination Report completed by Dr. Edney on 6/30/03, Forensic Examination Report completed by Dr. Williams on 4/21/03.

BEHAVIORAL OBSERVATIONS

Kyle arrived on time for the scheduled appointment and was transported by his mother. He was casually dressed with proper attention paid to matters of grooming and hygiene. Kyle was not found to be spontaneously conversant and was considered only minimally responsive to clinical inquiry as well as encouragement and prompts during the WISC-IV administration. He maintained poor eye contact throughout the course of the examination. In attempting to inquire regarding the instant offense, Kyle was unresponsive. He stated that he recalled the events, however did not wish to discuss them. Kyle presents as a cognitively impaired youngster who also experiences expressive language deficits.

TEST RESULTS

A Mental Status Examination found Kyle to be adequately oriented which respect to time, place, person, and situation. He denied the presence of homicidal or suicidal ideation and reported no history of same. He further denied any auditory or visual hallucination experiences. There was no evidence of confused mentation, loosening of associations, delusional thinking, or psychotic thought processes. Recent and remote memory functioning is felt to be reasonably intact and commensurate with his cognitive functioning. Kyle's affect was somewhat blunted and his mood appeared mildly depressed. Insight and judgment is partially impaired. His speech, at times, appeared pressured and his thoughts were goal directed. Kyle is of subaverage intelligence.

Cognitive Functioning

Kyle's performance on the WISC-IV resulted in a Full Scale IQ score of 71 which falls within the Borderline range of cognitive functioning. It is noteworthy that his performance on the Verbal Comprehension and Perceptual Reasoning Indexes fell within the Low Average range. He fell within the Mild to Moderately Handicapped range in the area of working memory. Such places Kyle's Mental Age between 9 ½ and 11 ½ years which is approximately 2 years below his current chronological age of 13 years.

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TEST RESULTS (Continued)

Competency to Stand Trial

Kyle's performance on the Competency Evaluation Instrument, GCCT, and structured interview is consistent with the above and indicates that he does not present with sufficient present ability to consult with counsel with a reasonable degree of rational understanding at this time. Moreover, Kyle does not have a rational as well as factual understanding of the pending proceedings. It is understood that competence to stand trial inquiries focus on those cognitive abilities necessary to understand information that is provided to Defendants regarding the trial process and to reason with the information that they acquire or bring to the situation. Developmental theory and relevant research reveals that these capacities are still developing in most youths prior to age 14. Given Kyle's mental age as cited above, it is felt that he is incompetent to stand trial at this time. It is believed, however, that Kyle would be able to attain competence in the near future.

RECOMMENDATIONS

It is recommended that Kyle continue outpatient counseling as previously involved prior to recent hurricane events. His overall treatment program should have a strong sexual offender specific component designed to reduce future risk and promote personal recovery. Pending court disposition, Kyle should also participate in competency restoration training.



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cc: Fax: 10/21/04 Amy Slawek, Assistant Public Defender
Pamela Roebuck, Assistant State Attorney